

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Reginald Osborne,)	
)	
Plaintiff,)	C/A No. 7:13-11-TMC-KFM
)	
v.)	ORDER
)	
Suminoe Textile of America Corporation,)	
)	
Defendant.)	
)	

The plaintiff, Reginald Osborne (“Osborne”), filed this action against his former employer, Suminoe Textile of America Corporation (“Suminoe”), alleging that his discharge violated the Family and Medical Leave Act (“FMLA”). Suminoe filed a motion to dismiss Osborne’s complaint pursuant to Federal Rules of Civil Procedure 12(b)(4), (5), and (6). (ECF No. 10.) Osborne responded to the motion (ECF No. 13) and Suminoe replied to Osborne’s response (ECF No. 15).

Pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C., all pre-trial matters were referred to a magistrate judge. This case is now before the court on the magistrate judge’s Report and Recommendation (“Report”), recommending that the court grant in part and deny in part Suminoe’s motion to dismiss. The magistrate judge’s recommendation has no presumptive weight and this court retains the responsibility to make a final determination. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which a party specifically objects, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge’s recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1). In this case, neither party objected to the Report.

In the absence of objections, this court is not required to provide an explanation for adopting the magistrate judge's recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

After a thorough review of the Report and the record in this case, the court adopts the Report (ECF No. 18) and incorporates it herein. Therefore, Suminoe's motion to dismiss (ECF No. 10) is granted in part and denied in part. Specifically, the motion is granted as to Osborne's claim for punitive damages and denied as to all other claims.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

June 13, 2013
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.